IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 150 OF 1992

Shri Nisar Ahmed Vazir Ahmed .. Petitioner

versus

Bombay Municipal Corpn of Gr.Bombay .. Respondents

...

None for the petitioner.

Mr.A.J. Bhor for the respondents

CORAM : B.H. MARLLAPALLE,J

DATED : 24th August 2005.

P.C.:

1. Contempt Petition no.150 of 1992 in L.C.Suit no.9555 of 1992 pending before the City Civil Court at Mumbai, Notice of Motion no.6985 of 1990 was taken out. The said notice of motion came to be dismissed and the suit was withdrawn on account of the statement made on behalf of the respondent Corporation on 21st January 1991 through its learned Advocate that it would not demolish the suit structure as described in the plaint without following the due process of law. However,

petitioner alleged that on 6th June 1992, the suit structure was demolished by the demolishing squad of the Corporation and without giving any notice. The petitioner therefore alleged that the undertaking given before the trial Court through the Advocate was flouted by the respondent and therefore, they be punished.

2. However, Civil Application no.5014/1993 came to be disposed of by this Court on 8th April 1994. In reply to the said Civil Application, the respondent Municipal Corporation stated that due process of law was followed before the suit structure was demolished in as much as a notice u/s.314 of the BMC Act was issued on 13th April 1992. This Court therefore noted that if the action of demolition by issuing notice u/s.314 was bad, the same aspect cannot be gone into and considered in the present Contempt Petition. In view of this order dated 8th April 1994, nothing further survives in this Contempt Petition.

3. Petition is therefore dismissed as infructuous. Rule discharged.

B.H. MARLAPALLE, J